

REMARKS

By the present amendment, Applicant proposes to amend claims 3, 8, 17, 21, 22, 26, 31, and 37. Claims 1, 2, 5, 7, 10, 12, 13, 15, 16, 19, 24, 26, 27, 29, 30, 33, 35, 36, and 39 were previously amended. The amendment to Claim 21 is made to insert a word that had been improperly amended in the previous office action. Claims 1-40 remain pending. Claims 1, 7, 15, 21, 26, 29, and 35 are independent claims.

In the recent Office Action, the Examiner rejected claims 6, 11, 14, 20, 25, 34 and 40 under 35 U.S.C. §112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter of the present invention. Examiner also rejected Claims 1-40 under 35 U.S.C. §102(e) as being unpatentable in view of Jennings (US 6,606,615).

Examiner made a §112, second paragraph rejection for Claims 6, 11, 14, 20, 25, 34 and 40 finding insufficient basis for the language “the hedge options.” Applicant contends the language “the hedge options” has proper antecedent basis from each of the Claims 3, 8, 17, 22, 26, 31, and 37 as “hedge options” are produced by “the plurality of analysts.” The claims should not be read as “the plurality of analysts hedge options.” However in order to further prosecution, Applicant has amended Claims 3, 8, 17, 22, 26, 31, and 37 to show that hedge options are received from the plurality of analysts.

With respect to the 35 U.S.C. §102(e) rejections, Applicant contends the present invention is patentable over the cited prior art reference since the Jennings reference is non-analogous to the field of the present invention. The present invention is directed to a system and method for company valuation. In this invention, experts in the field estimate the worth of a company in real time. “The expert could be an appraiser, an investment banker or a financial advisor, and increasingly could be the corporate development staff within the firm itself.” See [0001]. These experts “have access to all Initial Bids of all of the Primary Analysts,” according to the experts all use the same set of information. See [0069]

In contrast, Jennings is directed to forecasting contests. Particularly, Jennings concerns contests involving the prediction of future values of financial and/or economic variables that change over time. The present invention does not predict the future. The present invention

calculates the worth of a company in real time. The information provided to the participants in Jennings is variable as not all participants are given the same information. Jennings provides information or resources to its participants, depending on the subscription level of the participant. See col. 36, lines 15-22. Furthermore, the participants in Jennings have the capability of determining which resources are available to them. See Col. 43, lines 13-17.

Unlike the calculated company value determined by experts in the present invention, the contest of Jennings is one of random chance. The participants in Jennings are not experts in a field, rather the Jennings participants are individuals intended to encompass a wide segment of the population. In fact, Jennings teaches away from having “a small group of ‘expert[]’ participants” because such a situation only “limit[s] participation.” Col. 16, lines 59-65. Jennings permits hundreds of individuals from the general public to participate in the contest. Col. 16, lines 57 - 59. On the other hand, the participants in the present invention are a select group of professionals qualified to determine the worth of a company. These experts are skilled and educated in the field of determining company worth when buying or selling a business or when raising capital for a business. They are contracted to value the company and they are paid as a function of the final value. Determining what a business is worth is central to the present invention.

In addition, the present invention is unlike the reference to Jennings in that it does not use predesignated variables whose values change over time. The predesignated variables mentioned in Jennings include economic and/or financial variables such as the price of a particular stock, the Dow Jones Industrial Average (DJIA), a commodity's price, the unemployment rate, the Consumer Price Index, Gross Domestic Product, the trade surplus/deficit, a particular interest rate benchmark, or a currency exchange rate. Col. 17, lines 58-64. Contest participants are allowed to select and predict any number of variables chosen from the set of predesignated variables whose values vary over time. Col. 17, lines 51-58.

The present invention estimates the worth of a business based on set values. These set values include a confidential memorandum [0051] and Initial Bids from all the Primary Analysts [0069]. Also, Jennings's use of the internet to carry out the invention cannot be used to reject the patentability of the present invention. Applicant contends that the internet is commonly employed in many patent applications and is not a reason on which to reject the present application.

The present invention fills a gap in that there is no accurate way to evaluate the value of a private held business. The present invention allows multiple experts (analysts [0001]) starting with the same information (a confidential memorandum [0051] and Initial Bids from all the Primary Analysts [0069]) to work independently to determine the worth of a company, then, using the present invention, review the analysis of other experts'. After reviewing the value of other experts' a new value may be submitted in real time.

Applicant respectfully submits that the present application is in condition for allowance. If such is not the case, the Examiner is requested to kindly contact the undersigned in an effort to satisfactorily conclude the prosecution of this application.

Respectfully submitted,

Dated: April 14, 2008

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